

# **TAB 12A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

\_\_\_\_\_ X  
THE CITY OF HUNTINGTON, : Civil Action  
Plaintiff, : No. 3:17-cv-01362  
v. :  
AMERISOURCEBERGEN DRUG :  
CORPORATION, et al., :  
Defendants. :  
\_\_\_\_\_ X  
CABELL COUNTY COMMISSION, : Civil Action  
Plaintiff, : No. 3:17-cv-01665  
v. :  
AMERISOURCEBERGEN DRUG :  
CORPORATION, et al., :  
Defendants. :  
\_\_\_\_\_ X

BENCH TRIAL - VOLUME 21  
BEFORE THE HONORABLE DAVID A. FABER, SENIOR STATUS JUDGE  
UNITED STATES DISTRICT COURT  
IN CHARLESTON, WEST VIRGINIA

JUNE 7, 2021

1 pattern of, of pharmacy purchases that could -- things that  
2 should trigger a due diligence review.

3 **Q.** Okay. And, and let's turn to the next example, so the  
4 next slide, please.

5 So is there a second example that was provided in the  
6 distributor initiative briefing?

7 **A.** Yes.

8 **Q.** And were those other red flags that DEA explained to  
9 distributors?

10 **A.** They're things that a distributor should look at when  
11 questioning and performing due diligence on a specific  
12 order, yes.

13 **Q.** And did you provide a third example?

14 **A.** Yes.

15 THE COURT: You said DEA followed up on a  
16 suspicious order. Did DEA follow up on every suspicious  
17 order report you see?

18 THE WITNESS: That's, that's a question that,  
19 unfortunately, the department's directed me not to answer  
20 questions on what we do with the suspicious orders because  
21 it gets into the investigative process and also  
22 communication between -- the investigative communication  
23 between --

24 MR. SCHMIDT: If that's the case, Your Honor, then  
25 we move to strike his testimony on suspicious orders. The

1 idea that he can come in and make allegations about  
2 suspicious orders and not even answer the Court's basic  
3 question of whether they did anything about it, that's not  
4 fair to us.

5 THE COURT: Well, I'm confused and I probably  
6 shouldn't stick my nose in this that deeply, but I'm  
7 confused. The witness testified about the lack of person  
8 power and resources to do these investigations.

9 And then if I understood you correctly, you said you  
10 followed up on all the suspicious order reports. How did  
11 you rationalize those two propositions, --

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: -- Mr. Rannazzisi?

14 THE WITNESS: We did follow up on suspicious  
15 orders. But understand the volume of suspicious orders that  
16 should come in is not a huge quantity of orders. It  
17 shouldn't be like boxes of orders. It should be a very  
18 specific order that outlines why it's suspicious, what  
19 triggered the suspicion, what triggered the order, what's  
20 the historical ordering pattern. And then we would follow  
21 up.

22 But, but we're not talking about 100, 1,000 orders.  
23 We're talking about specific suspicious orders. And that,  
24 that -- I can't go over every order. But if you do  
25 suspicious orders appropriately and correctly, you're not

1 going to get 1,000 suspicious orders coming into a, to DEA  
2 in one day.

3 What you will get is suspicious orders go into the  
4 offices that if they're done appropriately, the agents could  
5 use -- agents and investigators can use that to build cases.

6 MR. SCHMIDT: And, Your Honor, our objection still  
7 stands. He did not answer Your Honor's question, which is:  
8 Do you follow up on all of them? I think by design he  
9 didn't answer that question.

10 If we're not allowed to ask him about the details of  
11 individual suspicious orders, particularly the relevant ones  
12 in this community, whatever his Goldilocks standard is for  
13 just the right amount of suspicious orders, then we can't  
14 fairly examine him. The testimony should be stricken.

15 MR. NICHOLAS: I think just to -- I agree and I  
16 would only add that it is a contested issue as to whether  
17 the DEA did do anything with suspicious orders. I mean, we  
18 don't agree, and we're challenging that statement.

19 And if we don't have the ability to, to hear the  
20 witness testify about it, we -- it's like we're on ice  
21 without ice skates or something. We don't have any footing.  
22 We can't deal with it.

23 THE COURT: Let me make sure I understand the  
24 issue here.

25 The question was probing the, the policies of DEA with

1 regard to suspicious orders.

2 And your objection, Mr. Westfall, was that that would  
3 get into their internal regulations and that's outside the  
4 scope of the two leading authorizations.

5 MR. WESTFALL: I think if it gets into individual  
6 cases of what was happening with suspicious orders except  
7 probably perhaps the defendants because anything that  
8 they've discussed, that's a little bit different situation,  
9 but getting into all the others as far as what happened on  
10 an individual basis with each suspicious order I think would  
11 be a problem, Your Honor.

12 MS. SINGER: Well, Your Honor, if I may, what I  
13 understand the guardrails to be here is that Mr. Rannazzisi  
14 can talk about the general practice of the DEA in dealing  
15 with suspicious orders. And I think what he's also talking  
16 about here are excessive purchase reports, which I'm happy  
17 to go into to help address the Court's question.

18 But what he can't do is talk about a particular  
19 suspicious order, what the basis for that was, how DEA  
20 investigated that order. And I think that is completely  
21 consistent with the defendants' ability to probe generally  
22 what DEA did or didn't do, as defendants' own motion makes  
23 clear.

24 Mr. Rannazzisi is not here to testify about suspicious  
25 orders in West Virginia. He's not an expert. His testimony